

REMARKS

Claim Status

Claims 11-15 are pending. Claims 1-10 were rejected. Claims 1, 5, 6, 10, 11, and 15 were amended above.

In claims 5, 10, and 15, the examiner has rejected clarification of the word "lease". That word is supposed to be "release" and the claims have been amended accordingly.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 6 and 11 were rejected as being anticipated by Rose (2,464,720). The examiner contends that Rose discloses a spreader bar (element 10a), a pivoted hook (element 14), and a body (element 13) mounted to a base (element 20) that is mounted to the spreader bar.

The applicant respectfully disagrees with the examiner. Before dealing with the specific rejections and references, let us begin by dealing with the law of anticipation as it currently stands. Anticipation is the complete disclosure in a single prior art source of a device substantially identical to the claimed invention. Harris v. NRM Corp., 191 USPQ 643 (1976, ND Ohio). An invention is anticipated when "all of the same elements are found in exactly the same situation and united in the same way to perform the function in a single prior art reference." Schroeder v. Owens Corning Fiberglas Corp., 514 F2d 90, 185 USPQ 723 (1975, CA9 Cal). (Citing Walker v. General Motors Corp. (CA9 Cal) 362 F2d 56, 58, 149 USPQ 472, 473, 474. An invention is not anticipated when the alleged anticipating device is substantially different in construction and operation from the claimed invention. Fuller v. Yentzer, 94 US 299, 24 L. Ed. 107 (1877).

Clearly, the applicant's invention is substantially different from the Rose device and is therefore not anticipated. First, the Rose element 10a, which the examiner cites as a spreader bar, is in fact a kite strut (column 2, line 17). Further, the pivoted hook (element

14), and body (element 13) mounted to a base (element 20) are structurally completely different from the applicant's pivoted hook, body and base. Further, and most importantly, the Rose invention functions to disconnect a separate flying element from the kite and not the kite user, as in the applicant's invention. Thus, since the Rose invention is substantially different in construction and operation from the claimed invention it does not properly anticipate the instant invention.

However, in order to clarify the difference between the applicant's spreader bar and the Rose strut, the applicant has amended claims 1, 6, and 11, above, to further specify that the spreader bar is designed to attach to a user. Therefore, in light of the above differentiation and claims amendments, the applicant respectfully requests that the examiner withdraw the instant rejection.

The examiner has rejected claims 1-15 as being anticipated by Fricke (3,088,701). The examiner contends that Fricke discloses a hook (element 2) connected to a base (element 1) and resiliently biased (element 5) blocker (element 8), the end of which is a "plate" that blocks its release and means (element 16) to connect to the spreader bar on the kite.

The applicant respectfully disagrees with the examiner. First, the Fricke device does not have a spreader bar that is designed to attach to a user, the base element 8 identical with the pivoting arm element and not an identifiable separate element. Further, and most importantly, the Fricke invention functions to disconnect a separate flying element from the kite and not the kite user, as in the applicant's invention. Thus, since the Fricke invention is substantially different in construction and operation from the claimed invention it does not properly anticipate the instant invention.

Therefore, in light of the above differentiation and claims amendments, the applicant respectfully requests that the examiner withdraw the instant rejection.

In re Application of: Green
Serial No.: 10/643,821
Atty. Docket No.: 629-001

Art Group: 3544
Examiner: Barefoot, Galen L.

CERTIFICATE OF MAILING

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on 3/7/04

By: 

In re Application of: Green
Serial No.: 10/643,821
Atty. Docket No.: 629-001

Art Group: 3544
Examiner: Barefoot, Galen L.

Claim Rejections - 35 U.S.C. § 103

The examiner has rejected claims 1-15 as being obvious over Rose in view of Ennis (2,425,309). The examiner cites Ennis as disclosing the details of spring biased hook (element 9) with the release mechanism (elements 52, 20, and 73) and contends that it would have been obvious to one having ordinary skill in the art to substitute the release mechanism of Ennis for that of Figure 2 of Rose since it is an equivalent release hook.

The applicant respectfully disagrees with the examiner. First, Ennis is a patent for a releasable hook element used to releasably couple aircraft to gliders and Rose is a coupling device used to releasably couple a kite to a second flying toy. There is not teaching or suggestion in either Ennis or Rose, either individually or in combination to make the examiner's combination. This becomes obvious when one considers that due to the extreme tensions experienced by the Ennis device, it would be a heavy device and not suitable for adaptation with a hook mechanism attached to a kite. Moreover, neither Rose nor Ennis, either individually or in combination, teach or suggest any modification which would lead to a spreader bar that is designed to attach to a kite user. Therefore, Rose nor Ennis, either individually or in combination, render the applicant's invention obvious, especially as the claim are after amendment.

Therefore, the applicant respectfully requests that the examiner withdraw the instant rejection.

Respectfully submitted,

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